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ABSTRACT

This document attempts to show that litigation serves to transform the way in which educators construct their conceptions of the financial aspects of desegregation. First viewed as a cause of retrenchment, desegregation later becomes the catalyst for resource redistribution and program innovation. As a corollary of this resource mobilization process, the customary budget channels are bypassed. New bureaucracies, budgets, and programs are overlaid on old ones, resulting in significant shifts in the power that accompanies access to funding sources. Litigation accounts for the deviation of desegregation budgeting from the normal budgeting process. In sum, the courts have become levers for mobilizing funds for schools. In effect, desegregation litigation introduces into an urban school system a new budget system, complete with new actors, new paradigms for thinking about resource allocation, and new avenues of revenue generation. This budgetary system will presumably merge eventually with the established system. The paper concludes that by observation of decision-makers' conceptualizations of budgetary categories, researchers may better understand the politics of management in an era of austerity. (PB)

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DESEGREGATION, LITIGATION, AND RESOURCE MOBILIZATION

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In a formal sense my topic today is "desegregation, litigation, and resource mobilization." Before addressing that topic, however, I want to make some observations about the epistomological aspects of studying the political economy of schools. To put the matter simply, I have come to believe that school budgets can best be viewed in constructivist terms. The interesting thing about budgets is not the amounts in the categories; it is the selection and description of the categories themselves. Budget categories are constructed in terms of the aspirations and world-views of the budget-makers. The politics of the budgetary process is to be found not only in the allocation of resources among categories and in the mobilization of taxpayer or legislator support; the politics of the budgetary process is also played out in the construction of budget categories. In a sense we already understand this. For example, we know that the decision to use program budget categories or line-item budget

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This paper was prepared for a Symposium at the 1983 Convention of the American Educational Research Association, Montreal, April 13, 1983. William M. Berg of Washington University's Sociology Department should be listed as a co-author, but I didn't have time to send the paper to him. If the paper is good, Bill deserves credit, for his ideas are included. But I am wholly responsible for the paper's faults, as Bill had no opportunity to make things right.

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categories is a highly political decision. Too often, I think, we are inclined to objectify budgets, to think that they carry some deep meanings which warrant comparisons, statistical analyses, and the like. I am skeptical about that attitude. My skepticism was considerably heightened by some recent studies on budgeting for school desegregation--studies to which I shall return shortly. First, however, let me illustrate my point with reference to other phenomena--phenomena which seem to me to suggest how budgets reflect the constructions and perceptions and assumptions of their makers.

Studies of retrenchment practices rarely take serious note of the fact that a fundamental cause of fiscal strain is experience-based salary schedules. Such schedules drive up costs at an increasingly rapid rate as enrollment declines and as the proportion of new (i.e. low-cost) teachers declines. Similarly we do not pay much heed to the fact that lay-off policies typically result in RIFs of low-cost rather than high-cost teachers. But experience-based salary schedules and seniority-based RIP policies are not givens. They are not inevitable. They are alterable variables. They are inventions of this century and they are not present in all sectors of the economy. If we assume that experience-based salary structures and seniority-based lay-off policies are inviolate and unalterable, we are, in effect, incorporating into our own analyses the assumptions of the individuals and organizations that we are studying. Such incorporation is undesirable, in my view, partly on methodological grounds and partly because it diminishes our capacity to engage in the kind of assumption-questioning analysis which is an indispensable prerequisite to creative leadership. Yet most studies of retrenchment treat salary schedules and RIF policies as givens, not variables. Thus we (i.e. policy analysts, researchers) incorporate the political assumptions of those we are studying.

One more example. There has been much talk about the fiscal strain produced by accelerating energy costs. Educators respond by considering energy audits, thermostat controls, and insulation. We study those responses. But the literature, to date, has scarcely considered the fact that there is nothing inevitable about nine-month calendars which force the operation of snow-belt schools during the coldest months (i.e. the high-cost energy months) rather than the warmer summer months. Our school calendars are hand-me-downs from an agricultural era. Not many kids work the fields in Chicago or Buffalo or Boston, yet we schedule school as if they did, and we discuss energy conservation as if winter schedules were inevitable. To the extent that policy analysts inadvertently incorporate educators' assumptions about calendars, the analysts preclude study of options which might be the most creative responses to the problem of energy saving. If budget-makers choose to ignore those variables, that choice itself is noteworthy and warrants study. Which brings me to my epistomological thesis: in the study of retrenchment and fiscal strain we need to examine not only the ways in which educators and citizens manage the problem, and the ways they respond to it; we need also to study the ways in which they construct it, and to probe the reasons for such constructions. The elemental fact is that problem-defining or problem construction, i.e. the selection and arrangement of assumptions, is a highly political act which is lost to us if we begin or end our investigations by examining budgets and resource allocation within budgets.

I came to these rudimentary observations through a series of studies involving the financial ramifications of desegregation in several large school districts around the U.S.A. The studies were predicated on assumptions which I now question. In essence, the assumptions treated desegregation as a source

of fiscal strain. The first study, conducted at the behest of a District Court judge, was designed to ascertain the cost of a desegregation plan which had been submitted to the court. The study assumed that desegregation costs could be isolated and calculated, and that they would, in effect, become add-ons to the cost of education in the city where litigation was occurring. Put differently, the judge wanted to know how much of a financial strain would be entailed by desegregation. The main conclusion of this study was that, within a given city, different actors (e.g. plaintiffs and defendants) had different ways of thinking about--i.e. different ways of constructing--desegregation costs.[1] A second study, funded by the National Institute of Education, sought to explain inter-city differences in desegregation strategies. We wanted to learn the reasons for city-to-city variations in reliance upon student reassignment strategies, magnet schools, staff re-training, capital investment, and other common components of desegregation plans. Informed by the work of Dye and others, we assumed that such policy variations would be more closely attuned to economic variables than to political variables. Following Wildavsky, we assumed that the budget process and the budget office would be the places to hunt for explanations of policy variation. Our thesis, which seemed entirely plausible when we began, was that "in large cities the budgetary process is a major determinant of the design and implementation of desegregation plans." Guided by this thesis we interviewed dozens of school officials (especially budget officials), reviewed district budgets, and read mountains of reports in four large districts in the northeast, midwest, and west.[2]

What we learned, in a nutshell, was that our assumptions were weak. The budgetary process was not a major determinant of the design and implementation of desegregation plans. Indeed, at least in the early stages of

desegregation planning, decisions about remedy components were made virtually without reference to costs, without input from budget officials, and without reference to the normal budget process. We found that the costs imputed to desegregation did not reflect true costs; rather "desegregation budgets" were constructed as tactical weapons aimed at affecting the thinking of judges, elected officials, state and federal agency heads, and the general public. We never got to the point of making inter-city comparisons of desegregation budgets, or desegregation costs and revenues, because the budgets themselves were not comparable. Indeed, desegregation budgets arising at different times or places within a single city were not comparable. The problem was not simply that different cities had different types of plans. Some desegregation components, e.g. transportation and magnet schools, were common. But the costs imputed to them reflected legal, political, and pedagogical considerations more than cost analyses. More generally, I think we can say that the desegregation cost projections--outwardly treated as sources of fiscal strain--actually functioned as political agendas rather than as the management tools which budgets are alleged to be. The magnitude and complexity of desegregation budgets were functions of the political agendas of their makers.

Let me give a few examples. You will recall that in the late 1960s and early 1970s, desegregation planning was viewed principally as a student assignment problem; students simply were moved from one school to another in order to meet some judicially-mandated standard. However, by the late 1970s, when we did our work, desegregation involved much more. One city used desegregation as a pretext to reorganize its grade structure by instituting a long-sought junior high school system--with all the building renovation costs that such a change entailed. Most cities instituted magnet schools programs in the name of desegregation. These schools are direct lineal descendants of the

"alternative schools" concept of previous years; the shift of labels from "options" to "magnets" was a political act prompted in large measure by the availability of federal funds for magnet schools. In Milliken v. Bradley II, as everyone knows, the state of Michigan was ordered to pay for a number of educational components in Detroit's desegregation plan, even though the plan left most students in segregated schools. A principal effect of that case, in states such as Ohio and Missouri, was that city school defendants sought to have state governments named as co-defendants in school desegregation cases; the move, which pitted city and state against each other in court, was clearly designed to force states to cough up funds for urban school desegregation. In city after city we found that school desegregation was used as a pretext for closing schools--a move which cities tend to put off in normal circumstances, but one which becomes politically viable in the face of desegregation orders.[3] More generally, what we found was that in cities ordered to desegregate, school officials have learned to start loading all sorts of high-cost items onto the desegregation plan--reorganization, curriculum reform, renovations, staff training, introduction of data management systems, and the like, solemnly declaring that these items are essential to successful desegregation; court orders then are used as levers to mobilize revenues from city, state, and federal officials. Desegregation, at least in the short run, has paid financial dividends. School officials have re-constructed their views of the financial aspects of desegregation; rather than being a drain on resources, desegregation has become a resource mobilization opportunity. As a corollary of this resource mobilization process, the customary budget channels are bypassed. Desegregation plans are drawn up in specially-created desegregation offices, or by outside experts. The budgets are reviewed and approved by

courts and agency officials, usually without reference to the core budget of the school district. The courts and agencies work on funding schedules disconnected from those used by budget officials. New bureaucracies and budgets and programs are overlaid on old ones, resulting in significant shifts in the power which goes along with access to funding sources. In the whole process, we found virtually none of the budget-making techniques described by Wildawsky and others, even though huge quantities of funds were involved.

How do we account for the fact that budgeting for desegregation seems to deviate so drastically from the normal budgetary process? I suggest that the process of litigation is the crucial intervening variable. Litigation has at least these four effects:

1. The litigation process, by its nature, invites a transformation of the problem of desegregation. The litigation process normally is divided into two discrete phases. The first phase, liability-finding, puts school districts into defensive postures which force a justification of the status quo, which invite district arguments that alternatives to the status quo were neither necessary nor financially sensible. There is, in short, nothing in the liability phase of a desegregation case which invites school officials to reconsider old assumptions, to invite new approaches. Moreover, to the extent that district strategists think that courts might be influenced by public opinion, there are strong inducements to issue statements that desegregation is very costly and that the financial strain of desegregation will hurt children and taxpayers. However, once the liability phase is completed, and school officials have been persuaded that, like it or not, they must adopt a desegregation remedy, the status quo no

longer assumes such a dominant position. An environment for creative response to the "cost" of desegregation is developed. We observed this transformation in city after city. Liability proceedings foster defensiveness; remedial proceedings foster creative budgeting.

2. Litigation also facilitates constructive responses to the financial burdens of desegregation by introducing new actors and new procedures into the budgeting process. The new actors often include court-appointed experts or Special Masters, as well as experts retained by plaintiff groups. Such individuals, unburdened by the traditions and established procedures of the school district, are able to introduce ideas and proposals which simply would not surface otherwise.

3. Because desegregation litigation proceeds on timelines determined almost entirely by actors not involved in the normal budgetary process, the people involved in the normal process are unable to apply the customary budget development techniques described so well by Wildavsky. There is no "base," the customary aids to calculation are often unfamiliar to remedy planners, and the normal techniques of budget formation and review and approval simply are bypassed. We repeatedly found that budget office personnel simply hadn't much to do with the formulation of desegregation remedies. However much it may violate the preconceptions of those who hold to the bureaucratic norm, the fact is that desegregation planning appears to fragment and divide budget control at the central office level. The result is improved receptivity to new ideas.

4. Finally, with the Milliken II case in Detroit, and with Congressional approval of the Emergency School Assistance Act (and occasional state

statutes such as Wisconsin's Chapter 220), the courts have been forums for connecting new fiscal demands, i.e. the costs of desegregation, with new sources of funds, i.e. state and federal treasuries. One of the most interesting aspects of desegregation litigation in the past decade has been the inclusion of state governments as defendants and, hence, as sources of funds for remedial programs. Another development, which warrants study by someone, has been the shift within ESAA guidelines which first prohibited the use of ESAA funds for court-ordered desegregation programs, and which subsequently permitted such use of ESAA funds.

Summing up, the courts have become levers for mobilizing funds for schools. In many cases, desegregation has produced sharp increases in district revenues. Rather than a burden, as most cities initially anticipated, desegregation became an opportunity. That, at least, has been the short-term scenario; the long-term financial consequences have yet to be ascertained.

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What I have attempted to show here is that litigation serves to transform the way in which educators construct their conceptions of the financial aspects of desegregation. First viewed as a cause of retrenchment, desegregation later becomes the catalyst for resource redistribution and program innovation. At least that seems to have been the experience of recent years in cities outside the deep south.

Intercity variations in desegregation remedies, I now am ready to suggest, are much less closely related to budgets and the budgetary process than to the characteristics and interests of the actors introduced through the litigation process. In effect, desegregation litigation introduces into an

urban school system a new budget system, complete with new actors, new paradigms for thinking about resource allocation, and new avenues of revenue generation. Over the long haul, and particularly as courts relinquish their involvement, the system of overlay presumably will be merged with the established system. The manner in which this happens, the extent to which the new merged system of budgeting differs from the pre-desegregation system, and the educational consequences of these differences, deserve study. If such studies are launched, researchers should pay careful attention not only to the allocations of funds within categories; they also should monitor alterations in the ways categories are developed and utilized.

Perhaps members of today's panel will want to comment on the extent to which other components of financial strain and fiscal retrenchment are reflected in alterations in the ways school officials think about, or construct, or conceptualize, the problem. By watching changes in decisionmakers' construction of the situation, we may get closer to the politics of management in an era of austerity.

1. David L. Colton, "Urban School Desegregation Costs: Case Studies," Center for the Study of Law in Education, Washington University, St. Louis, 1978. ERIC Document ED 147 972.
2. David L. Colton and William M. Berg, "Budgeting for Desegregation in Large Cities," Center for the Study of Law in Education, Washington University, St. Louis. ERIC Document ED 211 651.
3. David L. Colton and Kathleen Hull, "Court Intervention in St. Louis," Education and Urban Society XV (February 1983), 225-233.